



House of Representatives

File No. 772

General Assembly

January Session, 2011

(Reprint of File No. 175)

House Bill No. 5472
As Amended by House
Amendment Schedule "A"

Approved by the Legislative Commissioner
May 9, 2011

**AN ACT AUTHORIZING LOCAL AND REGIONAL AGRICULTURAL
COUNCILS AND CONCERNING CONSIDERATION OF AGRICULTURE
IN LOCAL PLANS OF CONSERVATION AND DEVELOPMENT AND
ZONING REGULATIONS.**

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

- 1 Section 1. (NEW) (*Effective October 1, 2011*) (a) Any municipality
2 may, by vote of its legislative body or, in a municipality where the
3 legislative body is a town meeting, by vote of the board of selectmen,
4 establish a local agricultural council to: (1) Provide information to local
5 farmers and to municipal boards and commissions about the benefits
6 of a balance between agriculture and other land uses; (2) educate
7 municipal officials about agricultural laws and safety issues; (3)
8 identify grant sources for farmers and municipalities; (4) enable a
9 common understanding of agriculture among all municipal
10 departments; (5) provide information and guidance about zoning
11 issues relating to agriculture; (6) support local, regional and state
12 vocational agricultural programs concerning agricultural matters; (7)
13 provide conflict resolution and advisory services; (8) identify
14 innovative opportunities for agriculture; and (9) create a climate that

15 supports the economic viability of agriculture in the municipality.

16 (b) Any two or more municipalities may form a regional
17 agricultural council for the purposes set forth in subsection (a) of this
18 section by vote of the legislative body or, in a municipality where the
19 legislative body is a town meeting, by vote of the board of selectmen,
20 of each municipality.

21 Sec. 2. Subdivision (1) of subsection (e) of section 8-23 of the general
22 statutes is repealed and the following is substituted in lieu thereof
23 (*Effective October 1, 2011*):

24 (e) (1) Such plan of conservation and development shall (A) be a
25 statement of policies, goals and standards for the physical and
26 economic development of the municipality, (B) provide for a system of
27 principal thoroughfares, parkways, bridges, streets, sidewalks,
28 multipurpose trails and other public ways as appropriate, (C) be
29 designed to promote, with the greatest efficiency and economy, the
30 coordinated development of the municipality and the general welfare
31 and prosperity of its people and identify areas where it is feasible and
32 prudent (i) to have compact, transit accessible, pedestrian-oriented
33 mixed use development patterns and land reuse, and (ii) to promote
34 such development patterns and land reuse, (D) recommend the most
35 desirable use of land within the municipality for residential,
36 recreational, commercial, industrial, conservation, agricultural and
37 other purposes and include a map showing such proposed land uses,
38 (E) recommend the most desirable density of population in the several
39 parts of the municipality, (F) note any inconsistencies with the
40 following growth management principles: (i) Redevelopment and
41 revitalization of commercial centers and areas of mixed land uses with
42 existing or planned physical infrastructure; (ii) expansion of housing
43 opportunities and design choices to accommodate a variety of
44 household types and needs; (iii) concentration of development around
45 transportation nodes and along major transportation corridors to
46 support the viability of transportation options and land reuse; (iv)
47 conservation and restoration of the natural environment, cultural and

48 historical resources and existing farmlands; (v) protection of
49 environmental assets critical to public health and safety; and (vi)
50 integration of planning across all levels of government to address
51 issues on a local, regional and state-wide basis, (G) make provision for
52 the development of housing opportunities, including opportunities for
53 multifamily dwellings, consistent with soil types, terrain and
54 infrastructure capacity, for all residents of the municipality and the
55 planning region in which the municipality is located, as designated by
56 the Secretary of the Office of Policy and Management under section
57 16a-4a, (H) promote housing choice and economic diversity in
58 housing, including housing for both low and moderate income
59 households, and encourage the development of housing which will
60 meet the housing needs identified in the housing plan prepared
61 pursuant to section 8-37t and in the housing component and the other
62 components of the state plan of conservation and development
63 prepared pursuant to chapter 297. In preparing such plan the
64 commission shall consider focusing development and revitalization in
65 areas with existing or planned physical infrastructure.

66 Sec. 3. Subsection (a) of section 8-2 of the general statutes is repealed
67 and the following is substituted in lieu thereof (*Effective October 1,*
68 *2011*):

69 (a) The zoning commission of each city, town or borough is
70 authorized to regulate, within the limits of such municipality, the
71 height, number of stories and size of buildings and other structures;
72 the percentage of the area of the lot that may be occupied; the size of
73 yards, courts and other open spaces; the density of population and the
74 location and use of buildings, structures and land for trade, industry,
75 residence or other purposes, including water-dependent uses, as
76 defined in section 22a-93, and the height, size and location of
77 advertising signs and billboards. Such bulk regulations may allow for
78 cluster development, as defined in section 8-18. Such zoning
79 commission may divide the municipality into districts of such number,
80 shape and area as may be best suited to carry out the purposes of this
81 chapter; and, within such districts, it may regulate the erection,

82 construction, reconstruction, alteration or use of buildings or
83 structures and the use of land. All such regulations shall be uniform
84 for each class or kind of buildings, structures or use of land throughout
85 each district, but the regulations in one district may differ from those
86 in another district, and may provide that certain classes or kinds of
87 buildings, structures or uses of land are permitted only after obtaining
88 a special permit or special exception from a zoning commission,
89 planning commission, combined planning and zoning commission or
90 zoning board of appeals, whichever commission or board the
91 regulations may, notwithstanding any special act to the contrary,
92 designate, subject to standards set forth in the regulations and to
93 conditions necessary to protect the public health, safety, convenience
94 and property values. Such regulations shall be made in accordance
95 with a comprehensive plan and in adopting such regulations the
96 commission shall consider the plan of conservation and development
97 prepared under section 8-23, as amended by this act. Such regulations
98 shall be designed to lessen congestion in the streets; to secure safety
99 from fire, panic, flood and other dangers; to promote health and the
100 general welfare; to provide adequate light and air; to prevent the
101 overcrowding of land; to avoid undue concentration of population and
102 to facilitate the adequate provision for transportation, water, sewerage,
103 schools, parks and other public requirements. Such regulations shall be
104 made with reasonable consideration as to the character of the district
105 and its peculiar suitability for particular uses and with a view to
106 conserving the value of buildings and encouraging the most
107 appropriate use of land throughout such municipality. Such
108 regulations may, to the extent consistent with soil types, terrain,
109 infrastructure capacity and the plan of conservation and development
110 for the community, provide for cluster development, as defined in
111 section 8-18, in residential zones. Such regulations shall also encourage
112 the development of housing opportunities, including opportunities for
113 multifamily dwellings, consistent with soil types, terrain and
114 infrastructure capacity, for all residents of the municipality and the
115 planning region in which the municipality is located, as designated by
116 the Secretary of the Office of Policy and Management under section

117 16a-4a. Such regulations shall also promote housing choice and
118 economic diversity in housing, including housing for both low and
119 moderate income households, and shall encourage the development of
120 housing which will meet the housing needs identified in the housing
121 plan prepared pursuant to section 8-37t and in the housing component
122 and the other components of the state plan of conservation and
123 development prepared pursuant to section 16a-26. Zoning regulations
124 shall be made with reasonable consideration for their impact on
125 agriculture, as defined in subsection (q) of section 1-1. Zoning
126 regulations may be made with reasonable consideration for the
127 protection of historic factors and shall be made with reasonable
128 consideration for the protection of existing and potential public surface
129 and ground drinking water supplies. On and after July 1, 1985, the
130 regulations shall provide that proper provision be made for soil
131 erosion and sediment control pursuant to section 22a-329. Such
132 regulations may also encourage energy-efficient patterns of
133 development, the use of solar and other renewable forms of energy,
134 and energy conservation. The regulations may also provide for
135 incentives for developers who use passive solar energy techniques, as
136 defined in subsection (b) of section 8-25, in planning a residential
137 subdivision development. The incentives may include, but not be
138 limited to, cluster development, higher density development and
139 performance standards for roads, sidewalks and underground facilities
140 in the subdivision. Such regulations may provide for a municipal
141 system for the creation of development rights and the permanent
142 transfer of such development rights, which may include a system for
143 the variance of density limits in connection with any such transfer.
144 Such regulations may also provide for notice requirements in addition
145 to those required by this chapter. Such regulations may provide for
146 conditions on operations to collect spring water or well water, as
147 defined in section 21a-150, including the time, place and manner of
148 such operations. No such regulations shall prohibit the operation of
149 any family day care home or group day care home in a residential
150 zone. No such regulations shall prohibit the use of receptacles for the
151 storage of items designated for recycling in accordance with section

152 22a-241b or require that such receptacles comply with provisions for
153 bulk or lot area, or similar provisions, except provisions for side yards,
154 rear yards and front yards. No such regulations shall unreasonably
155 restrict access to or the size of such receptacles for businesses, given
156 the nature of the business and the volume of items designated for
157 recycling in accordance with section 22a-241b, that such business
158 produces in its normal course of business, provided nothing in this
159 section shall be construed to prohibit such regulations from requiring
160 the screening or buffering of such receptacles for aesthetic reasons.
161 Such regulations shall not impose conditions and requirements on
162 manufactured homes having as their narrowest dimension twenty-two
163 feet or more and built in accordance with federal manufactured home
164 construction and safety standards or on lots containing such
165 manufactured homes which are substantially different from conditions
166 and requirements imposed on single-family dwellings and lots
167 containing single-family dwellings. Such regulations shall not impose
168 conditions and requirements on developments to be occupied by
169 manufactured homes having as their narrowest dimension twenty-two
170 feet or more and built in accordance with federal manufactured home
171 construction and safety standards which are substantially different
172 from conditions and requirements imposed on multifamily dwellings,
173 lots containing multifamily dwellings, cluster developments or
174 planned unit developments. Such regulations shall not prohibit the
175 continuance of any nonconforming use, building or structure existing
176 at the time of the adoption of such regulations. Such regulations shall
177 not provide for the termination of any nonconforming use solely as a
178 result of nonuse for a specified period of time without regard to the
179 intent of the property owner to maintain that use. Any city, town or
180 borough which adopts the provisions of this chapter may, by vote of
181 its legislative body, exempt municipal property from the regulations
182 prescribed by the zoning commission of such city, town or borough;
183 but unless it is so voted municipal property shall be subject to such
184 regulations.

| | | |
|---|------------------------|-------------|
| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | <i>October 1, 2011</i> | New section |
| Sec. 2 | <i>October 1, 2011</i> | 8-23(e)(1) |
| Sec. 3 | <i>October 1, 2011</i> | 8-2(a) |

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact:

| Municipalities | Effect | FY 12 \$ | FY 13 \$ |
|------------------------|-----------|-----------|-----------|
| Various Municipalities | See Below | See Below | See Below |

Explanation

It is anticipated that any municipality that elects to establish a local agricultural council will do so to the extent that local resources allow.

House "A," which adds a requirement to the municipal plans of conservation and development, results in no state or municipal fiscal impact.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**HB 5472 (as amended by House "A")*****AN ACT AUTHORIZING LOCAL AND REGIONAL AGRICULTURAL COUNCILS.****SUMMARY:**

This bill explicitly authorizes a municipality to establish a local or regional agricultural council. (Some municipalities currently have similar entities.)

It also requires a local conservation and development plan to recommend the most desirable use of land in the municipality for agriculture purposes and include it on a map showing this and other proposed land uses. Under current law, the uses include residential, recreational, commercial, industrial, conservation, and other purposes. By law, in preparing the plan, a planning commission or one of its special committees must consider agriculture protection and preservation.

By law, a municipal land use board must make zoning regulations giving reasonable consideration for their impact on agriculture. The bill specifies the definition of agriculture.

*House Amendment "A" adds the provisions concerning (1) local conservation and development plans and (2) zoning regulations.

EFFECTIVE DATE: October 1, 2011

AGRICULTURE COUNCILS

Under the bill, the legislative body of the town, or the board of selectmen where the town meeting is the legislative body, must vote to establish a council. Two or more towns can agree to form a regional

council by a vote of their legislative bodies.

The bill permits an agriculture council to:

1. provide information to local farmers and municipal boards and commissions about the benefits of balancing agriculture and other land uses;
2. educate municipal officials about agricultural laws and safety issues;
3. identify grant sources for farmers and municipalities;
4. enable a common understanding of agriculture among all municipal departments;
5. provide information and guidance about agriculture-related zoning issues;
6. support local, regional, and state vocational agricultural programs;
7. provide conflict resolution and advisory services;
8. identify innovative opportunities for agriculture; and
9. create a climate that supports agriculture's economic viability in the municipality.

DEFINITION OF AGRICULTURE

Under the bill, agriculture includes soil cultivation; dairying; forestry; and raising or harvesting any agricultural or horticultural commodity, including raising, shearing, feeding, caring for, training, and managing livestock, including horses, bees, poultry, fur-bearing animals, and wildlife. It also includes the:

1. raising or harvesting of oysters, clams, mussels, other molluscan shellfish or fish (aquaculture);

2. operation, management, conservation, improvement, or maintenance of a farm and its buildings, tools, and equipment, or salvaging timber or clearing land of brush or other debris left by a storm, as an incident to such farming operations;
3. production or harvesting of maple syrup, maple sugar, or any agricultural commodity, including lumber, as an incident to ordinary farming operations;
4. harvesting of mushrooms;
5. hatching of poultry;
6. construction, operation, or maintenance of ditches, canals, reservoirs, or waterways used exclusively for farming purposes; and
7. handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage, market, or a carrier for transportation to market or for direct sale (a) any agricultural or horticultural commodity incident to ordinary farming operations or (b) in the case of fruits and vegetables, incident to the preparation of such fruits or vegetables for market or direct sale (CGS § 1-1(q)).

BACKGROUND

Related Law

By law, the agriculture commissioner is authorized to provide advisory opinions to a municipality, state agency, tax assessor, or landowner at their request on (1) what constitutes agriculture or farming under the statutes and (2) the classification of land as farmland or open space (CGS § 22-4c).

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable

Yea 19 Nay 0 (03/11/2011)